



THE
OBSERVATOR
DEFENDED

IN

A modest Reply to the late *Animadversions* upon those
Notes the Observator published upon the seven
Doctrines and Positions which the King
by way of Recapitulation layes
open so offensive.

THe Animadverfor hath attacht the Observator,
just like a weak and degenerous enemie, that
durst not encounter his adversary in open field,
but lodgeth himself in some obscure and igno-
ble passage, to attempt at least upon his Ar-
riere-guard, not being able to pierce into his
main body. The ingenious peruser of both, I doubt not, may
discern that the Observator in the conclusion of his Treatise
only recapitulated seven Results out of His Majesties papers, in
contradiction to his Antecedent disquisition, & the Parliaments
proceedings, that so one might compendiously view the subject
of his discourse, and as it were by an Index find out the confu-
tation of His Majesties positions, by the fore-going Arguments
of the book, which the Animadverfor very cautelously is plea-
sed never to take notice of in the whole Discourse.

1. In the first position, the Animadverfor grants the Observa-
tors Arguments for the declarative power of Parliament in re-
spect of the safe residence of that power in the bosome of the
Jutelary Assembly; But with this restriction, "That he should
"have allowed the King his place in Parliament, and not have
"named a Parliament without him. But how could the Ob-
servator without affronting impudence speak otherwise? seeing

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His Majestie in present is pleased actually to have his residence out of Parliament, and will not allow himselfe a place in it; but in stead of concurrence with it, seeks the remotest distances from it. The better therefore to see how the King and Parliament are in parts, we will first negatively and then positively open the present Controversie betwixt them, which is the cause of their disjunction. Which in the first place is not this which most men conceive, That when His Majestie shall agree, and the Parliament likewise agree, for establishing some new Law, or interpreting some old, which may be for the particular commoditie of some conditions of men onely, in the Commonwealth; Whether then the King ought to declare this or that to be Law exclusively of the Parliament, or the Parliament doe the same exclusively of the King: But positively it is this, When there is visibly a danger readie to confound the whole commonwealth, and consequently all particular commodities and persons, Whether the State if then convened, may not lawfully of itself provide for its preservation, especially if the King either see not the danger, or seeing it, will not provide for it in such manner as may give best securitie to Himself and Commonwealth: When therefore such a Question shall justly arise betwixt King and commonwealth (which collectively is that we call a Parliament) it being of publike interest of State, and so *De jure publico*, it cannot fall under the examination of any inferiour judicature (with which those so known voted Lawes, the Animadversor speaks of, are to be found.) For that is furnisht only with rules of particular (not universall) justice, for the decision of particular differences betwixt this or that man, for this or that thing. Which rules being too narrow for so capacious a subject, we must recurre to those that the originall Laws of Nature and policy hold out to us, which must needs be superiour to the other. The chiefest rule of that is, *Ne quovis modo periclitetur res publica*, That by all means publike safety be secured: And every State must principally endeavour to hold fast and sure our publike sociable Incorporations one with another from publike dissensions.

stresses, calamities and destructions, which may arise from our selves or other forraign Kingdoms: And whilst that is done according as Natures Lawes and policy prescribes in Vniversall justice, they may well in the mean time proceed to make or revite Lawes of particular justice, which is of particular things, whereby we may commutatively encrease our fortunes and estates one by another, or by forraign commerce. But if those that sit at the head of the common-wealth shall let loose the helm of it, and so let it float at all hazards, or else unadvisedly steere it directly towards rockes and shelves, it selfe is bound by those originall Lawes (which surely may be some meanes) to save it self from a wrack: And how the King is not invaded or wronged by having himselfe and his Kingdome preserved from imminent danger, and how it is possible a King may ruine his Kingdom, follow in its just place. In the meane time from these premisses we prove that the Parliaments method is most excellent; For in the first place it endeavours to secure the being of the cōmon-wealth now floating at hazard; And afterwards to apply its self to quicken particular Laws for our wel-being. *Now therefore the fundamentall Law which the Animadversor so hotly calls for, & the Parliament squares by is not such a one as (some say) was never known before it was broken; Nor (as he saies) lies mentally or parliamentally in the wals of the Parliament House to be produced upon any emergent occasion:* But is such a one as is coucht radically in Nature it self (and so becomes the very pin of law and society) and is written and enacted irrepealably in her *Magna charta*; which we are not beholden to any sublunary power for, but belongs to us as we are living and sociable creatures. And no knowne act of particular Justice or right to this or that petty thing, can clash with this, but must in equitie vail to it, as to its superintendent. For what can those particular Acts of Law, which are to encrease our private and domestick profit advantage us? when its doubtfull in so great dangers whether we may enjoy our lives at all, or no. It is therefore notoriously calumnious and inconsequent which the Animadversor from hence affirms,

That the Parliament affects an arbitrary power, or the particular rights in ordinary course of Justice, as also the safety of King and people must at all times totally depend on their Votes exclusively of the King: Which in the following Position comes to be more fully disproved: Which power we confesse with him can never be safe either for King or people, nor is presidentable.

2. *Posit.* Parliaments are not bound to presidents (saith the Observator) because not to Statutes, *viz.* Absolutely; For the cause both of the one and the other is not permanent: And tis true therefore which the Animadversor saith, *that they are durable, till they be repealed*, which had been to good purpose had he ever denied it, For he rightly attributes no more power to Statutes then to other particular Lawes, which (as is proved in the first Position, and further shall be in this) cannot in his case stand in equitie, nor act beyond their power, and that contrary to the Legislative intent, *viz.* to be a violation of some more soveraigne good introduceable, or some extreme and generall evil avoidable; which evil otherwise might swallow not onely Statutes, but all other sanctions what ever. And thus in respect of the effect, they may be said in some sort to Repeal themselves. For really in such a case they become mortified, and can doe no more for us. For the Parliaments case and controverfie (which the Animadversor still forgets to be of preserving the whole Kingdome, and so, *De jure publico*) is of so transcendent a nature, "*de facto*, it may nor, and *de jure* it ought not to be restrained by pettie and mortified Statutes or Lawes, in acting so much good for us. *But how should Presidents (as the Animadversor saith) be best warrants? or how should they be in the like degree limiting or binding that Oaths are?* Consider the consequence, Such or such a Parliament did not or durst not doe this or that, therefore may no Parliament do it? Some Parliaments, not comparable to the Worthies of this) have omitted some good out of supinenesse, difficulty, or to avoid a greater evil, which might be valuable with the good desired; some perhaps hath done ill which the integritie and worth of this abhors to think of; so that neither King nor Parliament have reason to plead so strongly for coherents to Presidents. But both have better rules if they will not deceive them, which are, To direct all by the interest of State (which is never accusable of Injustice) And by Equitie, which we may call a generall Law: and though it be variable according to the subject matter and circumstances, yet it is that only, which will not let *summum jus* be *summa injuria*, which is the supremest right that can be done us. And it remains to be wisht that the Animadversor would have shown us in this main businesse, wherein the Parliament hath gone crosse, either to publicke Interest of State or Equitie. To say (as the Animadversor doth) *that this single and extraordinary case excludes the King from Supremacy (even above particulars) and divests him to the naked priority onely of Place and Title*, is that which blasts it self, unlesse the Animadversor be able to prove the Kings exercise of his former power totally intercepted, and the more now then in o-

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ther Parliaments of the like circumstances, or that he is ruin'd by having his Kingdome preserved. *But Serjeant Major Skippon (who is a particular) was not permitted to obey the Kings summons of him, therefore the King (saith the Animadverfor) is denied a power even above particulars.* But we answer that his case reports to that of the Parliaments, and must stand or fall with the equity of that. In the mean time he is so imployed, that he could not have been in any more redounding to His Majesties solid happinesse, which (rightly understood) would have produced rather an excuse than an accusation. *For the Parliaments discharging of their trust (which the Animadverfor fears so much)* It is so notorious to all uncorrupted and unbiaſt judgements, that we have reason to pray, that those who so advisedly elected them in a time of lesse danger to the Kingdome, than this present is, be not more disloyall to them; than they are to their chusers. What they have actually effected with the Kings concurrence, the Animadverfor I hope will not except against; and what they desire further to effect (wherein they so humbly and patiently have attended his Majesties concurrence) is onely for the happier continuation of that other to us, and is to be reputed good or ill, in order to that. Where then is the evill for which the Parliament must be so scourged by all sort of hands? why did we engage them so studiously to wipe off that Rust, which began to eate so deep into the letter of our lawes, and all our possessions? and to make new purchases for us of all our estates? if now being assembled they cannot discern what and where those lawes are to be found, by the luster and power of which they they should act all this for us. We have blessings plentifully in store for his Majesty, but desire he would not reduce the ultimate resolution and referch of the Law (our blessing) to be in his own bosome, more than in that of the Parliament, lest when God in his anger shall deprive us of so great a blessing as is his life and government, that dye with him. I shall not multiply on the Animadversors Arguments; *Of the possibility of the Parliaments erring, and not rightly discharging their trusts:* all which might be more powerfully urged on one man confiding in his own singularity. He might have knowne them to have been unanswerably refuted and kild before their birth. But since he will "have the Parliament so great practitioners of Popish policy, in respect of some infallibilitie, which he saies, and they never arrogated; save onely a probabilitie of lesse erring in that question betwixt his Majesty and themselves; let me, I say, nakedly recite what the learned, and yet unanswered Divine in this matter (which the Animadverfor so triumphs in) hath urged against the Papists, whom it most concerns, so to leave the Reader to assume what shall seem most deduceable to himself; His words are these. * He that would usurp an absolute tyranny and lordship over any people, need not put himself to the trouble and difficulty of abrogating his Laws, maid to maintain the common liberty, for he may frustrate their intent and compasse his design as well, if he can get the power and authority to interpret them as he pleases, and have his interpretarioms stand for Laws. I shall not need to recapitulate the condition of

Chilling.

c.2.p.49.

our Lewes before the Parliament, nor yet what interpretations they received; Which interpretation were held so Authentique, that they made the Law but a nose of waxe, to wring sometimes this way for Ship money, and for the lawfulness of it, as to make the King likewise the sole Iudge and redresser of all publike dangers, sometimes another way for legall monopolies, &c. Let the world then iudge who arrogate most infallibilitie, or have more made use of Papists or Popish policy.

3. The Observator saith that the Parliament deferred by the King in the whole Kingdome distresse may relieve it and the King. Here is asserted the publike Interest of State, which can fall under no notion of any inferior Court to examine. But the Animadversor draws this consequence from thence; *That then every mans estate may be wrested from his propriety and possession: Quam urceum exis.* Here he doth most palpably discover the loosenesse of his Logick and cause, and how little he holds to his premisses, and state of the Controversie betwixt King and Parliament, which I so oft noted before, and shewed the case to be *De Iure publico*, and so politicall.

Commutative therefore and Distributive Iustice being of inferior matters have their inferiour Courts, and the apparant letter of the Law to decide, and power to actuate what is rightly decided. But this Controversie being *De iure publico*, of a publike right, it falls under the notion of another sort of Iustice, whereas particular proprieties and possessions fall under those two inferiour sorts of Iustice, as hath beene proved in the conclusion of the first Position, which together with this shew the sandinesse and incoherence of the Animadversors consequence. Here therefore we will onely note, that even in a common distresse (which is lesse then a publike) without a Vote of Parliament, or expecting any other dispensation of Right, a particular propriety may be destroyed by a Community to preserve it self: as when the Sea breaks in upon a County, a bank may be made of and on this or that mans ground whether he please or no; And when our Neighbour *Vcalygons* house blazes, frequently we see some houses pluckt down (where the fire actually broke not out) lest it should consume the whole streer. And equitie (before Poetic) that in respect of the propinquitie of the danger, we are supposed to be even in the danger it selfe; and that the house so pluckt down, is not supposed so much to be dilapidated as burnt. *Tam tuas res agitur paries cum proximus ardet.*

But I wonder by what Act or Declaration the Parliament hath denied a compensation to the sufferer in that kind, as the Question now stands? If all men did not know that the Parliament hath so provided for the indemnity of those at *Hall*, perhaps the Animadversor might have gained the credit of some modesty in averring, That the Parliament upholds publike good with private misery. With the like grace also, and with sufficient confidence doth he tell us, That if there be a great distresse in the Kingdome, it is caused by the Parliament claiming that power which cannot consist with the Royall estate of his Maieesty. 'Tis prodigious to all honest understandings, that the near engagements of warre with the

the *Scots* twice meerly upon misunderstanding ; That the design of strangling the *Parliament* as soon as born (for proof of which the *Parliament* presumes to have had too much sufficiency) having the bloudest and true Papisticall war in *Ireland* rayseed against our Nation, and that against the *Parliament* especially (in the walls of whose house they haae already endangered a breach, *Jam perlucens ruina*) That even now among our selves we see some, who with more alacrity are ready to imploy themselves against that sacred Assembly, than against those unchristian Rebels, and yet that all this should be too little to evince the Realitie (as the Animadver-
tor saith) of a distressed kingdome ; and who is yet more transcendent, That all this should be caused by the *Parliament*, which aimes at nothing but the extirpation of the *Parliament* root and branch, and of which some part of it (*viz.* the *Scots* troubles) had being long before the *Parliament* had any ; and then I pray, how could it be the cause of it ? How the King is head and we the body, and how the King cannot be insulted over by having his *Kingdome* and Selfe preserved from ruine, is proved at large by the Observer, beyond the capacity of any his animadversions. Whether the people
“ may revoke all they actually have transacted to their King,
“ is a Question very impertinently inserted by the Animad-
for, in respect of any thing that the Observer hath in the *Parliaments* case ; which is such, That when the King shall have endeavoured his utmost, he will find, that he shall not be able to preserve the *Kingdome* in extremitie of distresse, without the assistance of the *Kingdome* it self. However this the Observer denies, that the people could make such a conveyance of power to their Kings, as might prove destructive of humanitie : So that much of the Animadvertors Divinity might have been husbanded for an apter occasion. Never thelesse *S^t Paul* in the 13. of the *Romanes*, tells us not what power is the highest, but that that power which is the highest ought to be obeyed. Again as *S^t Paul* speaks first of a few
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particular disperst men, and those again in a primitive condition; who had no means to provide for their preservation. Moreover it is very observable that Sⁿ Paul in the 3. verse speaks of a Ruler, as our Law speaks of our King, *viz.* *That he is not a terror to good but to evill works*: The Law likewise saith, *The King can doe no injustice*. The interpretation of the one must square with the other, and that must be according to the distinction of Fact and Right. For according to Fact, S^t Pauls Ruler may be a terror to good, and a cherishing to evill works; but by Right he ought not to be so. Our Law saith, Our King rather ought not in Right, than that *de facto* he cannot doe injustice; For we know there have been both unjust Kings and ill Rulers. But least there should be such, Scripture it self as well as our Parliament doth endeavour to binde them from exercising ill. As *Deut.* 17. ver. 18 19. 20. The King shall have a book to learn to keep the Law, and doe according to it, lest his heart be lifted up above his Brethren. And *Ezek.* 46. 18. The Prince may not take of the peoples inheritance by oppression, and thrust them out of it, but shall be content with his own possession, lest other men be scattered from their possessions. Wherein then hath the Parliament denyed the King that due which S^t Paul allows his Ruler? Who he saith, (as is very observable through the whole Chapter) that he may be a Minister to us onely for good: And to keep the Parliament even with S^t Paul, What elsedoth it hazard it self for, but for refusing to favour the King in an uncircumscribed power of doing ill? Which facultie he vindicates to himself irrestrainably, And that by virtue of some Right and enlargement of Law and Religion, even to doe all manner of ill, if so be he shall ever be pleased so to doe. Moreover S. Paul hath not, nor could any where repeale the lawes of nature, so that if the Parliament in its case hath neither declined them, nor our own Originall Contracts, nor the present interest of State, nor S. Paul, Then I hope, it hath kept it self consonantly to Law and Religion.

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Out of all this (with what followes in the sixth Position) wee
 " may easily answer to the Anymadversors Objection of Resistance.
 For out of those premises it appeares. That in the King there are
 two things onely; first, His Person; Secondly, His Office, Autho-
 ritie, or as St. *Paul* calls it, his Power: for his Person we hold it al-
 wayes inviolable: For his Power or Office, because St. *Paul* saith,
 it respects us onely for good, its very reasonable that we apply our
 selves in obedience to that for our owne sakes as well as for his. But
 the Court Parasites they are not content with this distribution, but
 adde to the person and power, or office of a Prince, that which
 they call, The will or pleasure of a Prince; or rather they marry-
 the power or office of a Prince to his Will: and so by that sub-
 till conjunction they proving them all one (*Quia omnis potestas est*
voluntatis) then they aske us the Question, Whether we are not
 equally bound to obey the one in all latitudes as well as the other?
 As if we had contracted for the evill as well as the good, and that,
 as it should seem best to the Prince we contracted with. But to
 that we clearelier answer, That because the will lies under an
 indifferencie of commanding the ill, as well as the good, we
 may lawfully embrace that part and power onely of his good,
 (as St. *Paul* saith) which indeede is the very essence of his power,
 and makes him a King: and we may reiect the other, which
 makes him a bloody Tyrant: Yet not so as to violate his per-
 son in any case (no more than *David* would King *Saul*) but prefer-
 vatively to thrust as farre from us as wee are able all other blood-
 suckers, who are forward to execute on us his ruining commands;
 because in such a case he contracts his owne ruine as well as ours, and
 is supposed to be in a distemper, and instead of a wholesome potion
 to call for poyson, which I thinke no good or honest Physitian
 would obey, but rather resist those that would obey him. Wherefore
 in these considerations, it is not here as the Animadversor saith of
 the Parliament; *Nolumus hunc regnare super nos*; but *Nolumus hos*
destruere nos. But of this in the sixth Position. And for this hath
 beene asserted, I know I quote our owne Gracious Prince, who
 hath beene pleased thus to indoctrinate us in his severall Protestati-
 ons, of ventring his owne life to preserve us in the fruition of our
 due liberties of Subiects; which we are sure we cannot enioy from
 him, if by that Protestation he intended to force upon us, a duty and
 allegiance of embracing all those tormentors whom he should send

to us at any time, on any occasion (lawfull or not lawfull) to spoyle us either of our lives or substance; If so be so much evill should possibly hereafter enter into his Maiesties secret thoughts and will, Of which therefore seeing there is never a knowne Law of the land, and that it hath no analogie with the true Protestant Religion, and our own iust liberties of Subiects, we will presume that his Maiestie abhors the thought of chaining us to such a slavery for his owne part, both in Fact and Right; though alas he cannot promise us that all his Successors shall doe the like. Wherefore the Animadversor doth plainely abuse his Maiestie in this Argument, and doth desperately corrupt his present cause. Thus wee see what evils wee may thrust from us, and how we are bound to preserve the Kings power or office, together with his person as much as our owne. But the Animadversor, together with his Tribe, preach another kinde of doctrine, from whence they know how to raise better uses for their ends, than the King can doe any; and that is, That in stead of opposing the worst of those evils which by a Kings bare pleasure may be that we should suffer by the hands of other persons, that we should, I say, simply betake our selves to flight, leaving all that we have in this world, but our lives, to the Kings disposall, and to be transferred to those whom he shall thinke better worthy of them than our selves, But in the Parliaments case it hath beene observed, that as it is impossible (in a manner) for a whole Kingdome to flie, so surely cannot that be required of it: This case is not as *Dauids* (a particular mans) was, who being in the right, yet in danger, fled indeed, but it was from one place to stand better on his guard in another.

4. No Member of Parliament ought to bee troubled for Treason upon suspicion only; especially I say, in such a case, whereof not only the whole House, but the whole Kingdome knows it selfe to be alike culpable. And that the accused were in safe custody, is not to be doubted of by the Animadversor, if the ingagement of a whole Kingdome can give security: which is sufficient enough for five men, for ought the Animadversor hath to the contrary.

5. *Because the Parliament to save a whole Kingdome once from ruine, hath used some power which is communicable to a whole Kingdome in such an extraordinary case; Therefore it may (saith the Animadversor) usurpe it in ordinary cases; because it may declare the danger what it will at pleasure, and it is not infallible.* As this consequence of the Animadversor is the same with that of the third Position, so may
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may the answer of that be applyed to this, to which I shall refer the Reader. This only will I adde, That there is no need to create an Infallibility in the Parliament to discern matters of Fact within every mans cognizance ; but to afford it only a probability of lesse erring, or being lesse deceived rather than a particular Individuall ; And that its common interest joyned with its indirectnesse and integrity (of which the extraordinary exact choosing of the Members at the beginning, it is an extraordinary prooffe) may bee a forcible Improbability of its ever usurping such a power in ordinary cases, which as it cannot be serviceable any way to us (because ordinary cases have their most convenient courses certainly regulated) so can it not be but extreemly dangerous to themselves alone, and no waies advantagious ; Because in such cases we participate all of us of the like conveniences. This Position the Animadversor is pleased to conclude with a Riddle ; *That the ruines which the Parliament intends to save the Kingdome from, is to save it from Monarchy.*—*Risum teneatis amici ?* Are we so overgrowne with that government, which our Laws are lockt and cabenetted in, in such manner, that the wounding of the one is the bleeding of the other ? Or is it true which the Bishops have so long pulpited at Court, that the razefing of their power must be the Ecclipse of the other ? although we know, and all the world with us, That Monarchy was of a more extended latitude and absolutenesse before Christianity was profest by any Monarch, then ever it was since : Or more coherently to the Animadversors own words ; Can there be no abuses or Cobwebs in Church or Common-wealth, but they must needs be spun out of the bowels of Monarchy ? so that the reforming & sweeping away of the one, must needs be the sweeping away of the other ? For our owne parts, we will not make them so much Son and Father, although the Animadversor bee pleased to doe his Majesty this good service. What then, the too too true ruine of the Kingdome is conceived to be, is set down in the third Position ; And what Connexion there is in making Monarchy the same with that, let the refinedst and the rudest Logick collect.

6 7. *Whether levying of Forces against the personall Commands of the King, though accompanied with his presence, be to War against the King,* is largely discoursed by the Observator beyond any force of reason which the Animadversor hath used to enforce the contrary. His Majesty acknowledged much of this to the Scots, whose preparations

rations were in all respects like ours, and which his Majesty found to be *Non tam contra quam prater auctoritatem Regis*, after hee had prest the Animadverſor's arguments as warinly, as now he doth against other of his good Subjects, though yet suffering under the great calamity of his Royall displeasure. But to say little of that which is so notorious to us all of this Kingdome; Let us look over to *France*, and there we may see those who were as much Protestants as we, that levied armes against their Kings commands, accompanied with his presence, and yet our King never thought them the worse Christians or Subjects for that, and therefore made himselfe a partizan with them in their very cause; so clearly was the piety and lawfulness of such an act at that time reconciled to his Majesties conscience and understanding. All which the Animadverſor must needs confesse, unlesse he will own the present Declarations of the *Rochelers*, who with execrations of us say (upon the event of their war) that the Duke of *Buckingham*s design was to destroy and eate them up; and that they had preserved their liberties and Religion from any adulterate mixture of Popery, had they never seen him.

But according to the Animadverſor, It is impossible a King should ruine his Kingdome, because he shall alwaies have the Major part with him. But modern miseries shew us the contrary, witnesse the neare depopulated Principalities of *Germany*. But to answer the Argument with like reason, I say, that after a King shall have destroyed the Minor part of his Kingdome with his Major, why may he not then, by some differences in the Major part, be a cause even to bring that to destruction too? But without supposing such a Fate, why may he not, *Nero* like, for pleasure sake, desire that all the heads of the Major part stood but upon one neck, that so he might chop them off at a blow? Seeing then such a King may ruine his Kingdome, (by lamentable distresses and depopulations) and if a Parliament hath the power to hinder it, it doth that which it is bound to doe, and which is neither against the person, or genuine authority of the King, unlesse we can apprehend a Kings authority without a Kingdome (which is the object it extends to, and acts in, and which wee have proved he may destroy) and without which the Animadverſor must needs reduce such a King to a barer Title, then he said our Parliament would reduce our King to.